



General Assembly

February Session, 2014

Raised Bill No. 189

LCO No. 356



Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

***AN ACT CONCERNING THE INSURANCE DEPARTMENT'S MARKET
CONDUCT EXAMINATION AUTHORITY.***

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 38a-15 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2014*):

3 (a) The commissioner shall, as often as the commissioner deems it
4 expedient, undertake a market conduct examination of the affairs of
5 any insurance company, health care center, third-party administrator,
6 as defined in section 38a-720, or fraternal benefit society doing
7 business in this state. Any such examination shall be conducted in
8 accordance with the procedures and definitions set forth in the
9 National Association of Insurance Commissioners' Market Regulation
10 Handbook.

11 (b) To carry out the examinations under this section, the
12 commissioner may appoint, as market conduct examiners, one or more
13 competent persons, [not officers] who shall not be officers of, or
14 connected with or interested in, any insurance company, health care

15 center, third-party administrator or fraternal benefit society, other than
16 as a policyholder. In conducting the examination, the commissioner,
17 the commissioner's actuary or any examiner authorized by the
18 commissioner may examine, under oath, the officers and agents of
19 such [an] insurance company, health care center, third-party
20 administrator or fraternal benefit society and all persons deemed to
21 have material information regarding the company's, center's,
22 administrator's or society's property or business. Each such company,
23 center, administrator or society, its officers and agents, shall produce
24 the books and papers, in its or their possession, relating to its business
25 or affairs, and any other person may be required to produce any book
26 or paper [, in his] in such person's custody, deemed to be relevant to
27 the examination, for the inspection of the commissioner, [his] the
28 commissioner's actuary or examiners, when required. The officers and
29 agents of the company, center, [or association] administrator or society
30 shall facilitate the examination and aid the examiners in making the
31 same so far as it is in their power to do so.

32 (c) Each market conduct examiner shall make a full and true report
33 of each market conduct examination made by such examiner, which
34 shall comprise only facts appearing upon the books, papers, records or
35 documents of the examined company, center, administrator or society
36 or ascertained from the sworn testimony of its officers or agents or of
37 other persons examined under oath concerning its affairs. The
38 examiner's report shall be presumptive evidence of the facts therein
39 stated in any action or proceeding in the name of the state against the
40 company, center, administrator or society, its officers or agents. The
41 commissioner shall grant a hearing to the company, center,
42 administrator or society examined [,] before filing any such report [,]
43 and may withhold any such report from public inspection for such
44 time as the commissioner deems proper. The commissioner may, if
45 [he] the commissioner deems it in the public interest, publish any such
46 report, or the result of any such examination contained therein, in one
47 or more newspapers of the state.

48 (d) (1) All the expense of any examination made under the authority
49 of this section, other than examinations of domestic insurance
50 companies and domestic health care centers, shall be paid by the
51 company, center, administrator or society examined. [, and domestic]

52 (2) No domestic insurance company or domestic health care center
53 liable for an assessment levied under section 38a-47 shall pay, as costs
54 associated with an examination made under the authority of this
55 section, the salaries, fringe benefits and travel and maintenance
56 expenses of examining personnel of the Insurance Department
57 engaged in such examination, except that domestic insurance
58 companies and other domestic entities examined outside the state shall
59 pay the traveling and maintenance expenses of examiners.

60 (e) (1) The commissioner may engage the services of attorneys,
61 actuaries, independent certified public accountants or other
62 professionals or specialists as examiners to assist the commissioner
63 when: (A) The commissioner is the managing lead regulatory official
64 in a multistate market conduct examination; or (B) (i) the
65 commissioner undertakes a targeted market conduct examination of a
66 domestic insurance company or other domestic entity to investigate an
67 alleged pattern of misconduct, and (ii) the commissioner has made a
68 finding that such targeted examination requires expertise or staff
69 resources not available within the Insurance Department at the time of
70 such targeted examination. The provisions of chapter 55a shall apply
71 to any contract or agreement entered into for the provision of such
72 services.

73 (2) The domestic insurance company or other domestic entity that is
74 the subject of the multistate examination shall pay the cost of such
75 services. The domestic insurance company or other domestic entity
76 that is the subject of the targeted market conduct examination shall
77 pay the cost of such services if the department takes administrative
78 action against such company or entity as a result of the findings of the
79 examination.

80 (f) (1) No cause of action shall arise nor shall any liability be
81 imposed against the commissioner, the commissioner's authorized
82 representative or any examiner appointed or engaged by the
83 commissioner for any statements made or conduct performed in good
84 faith while carrying out the provisions of this section.

85 (2) No cause of action shall arise nor shall any liability be imposed
86 against any person for the act of communicating or delivering
87 information or data pursuant to an examination made under the
88 authority of this section to the commissioner, the commissioner's
89 authorized representative or an examiner if such communication or
90 delivery was performed in good faith and without fraudulent intent or
91 the intent to deceive.

92 (3) This subsection shall not abrogate or modify any common law or
93 statutory privilege or immunity heretofore enjoyed by any person
94 identified in subdivision (1) of this subsection.

95 (g) Nothing in this section shall be construed to prevent or prohibit
96 the commissioner from disclosing at any time the content or results of
97 an examination report or a preliminary examination report or any
98 matter relating thereto, to (1) the insurance regulatory officials of this
99 state or any other state or country, (2) law enforcement officials of this
100 or any other state, or (3) any agency of this or any other state or of the
101 federal government, provided such officials or agency receiving the
102 report or matters relating thereto agrees, in writing, to hold such report
103 or matters confidential.

104 (h) All workpapers, recorded information, documents and copies
105 thereof produced by, obtained by or disclosed to the commissioner or
106 any other person in the course of an examination made under the
107 authority of this section shall be confidential, shall not be subject to
108 subpoena and shall not be made public by the commissioner or any
109 other person except to the extent provided in subsection (g) of this
110 section. The commissioner may grant access to such workpapers,

111 recorded information, documents and copies to the National
112 Association of Insurance Commissioner as long as it agrees, in writing,
113 to hold such workpapers, recorded information, documents and copies
114 confidential.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2014</i>	38a-15
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Statement of Purpose:

To establish, for market conduct examinations conducted by the Insurance Department, circumstances under which the department may engage professionals and specialists as examiners, provisions regarding payment of certain costs of such examinations, immunity for persons conducting such examinations and the confidentiality of examination reports, workpapers and other information obtained or reviewed by the Insurance Department during such examination.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]